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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/125,888	08/27/1998	AGNETA PETTERSSON	1103326-0519	8291
7470	7590	08/19/2004	EXAMINER	
WHITE & CASE LLP PATENT DEPARTMENT 1155 AVENUE OF THE AMERICAS NEW YORK, NY 10036			CHORBAJI, MONZER R	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/125,888

Applicant(s)

PETTERSSON ET AL.

Examiner

MONZER R CHORBAJI

Art Unit

1744

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 27 July 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-10.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 5. does NOT place the application in condition for allowance because:

Response to Arguments

It is believed applicant is trying to make the following points in their remarks after final rejection:

The combination of Jones and Gordon would suggest that because Jones does not talk about sterilization per se and Gordon was used by the examiner to show sterilization of laminate package using EO is known in the art. The fact that the Gordon reference uses foil to protect a part of the package one would either expect to use foil in Jones or expect because Gordon uses foil that a laminate absent foil would not withstand EO sterilization. It is believed applicant is in error because although Gordon uses foil, Gordon only uses it to protect a small portion of the package. The vast majority of the package is unprotected by foil and available for EO sterilization.

Applicant argues, "it is well known and well documented that EO sterilization affects the characteristics and properties of plastics and elastomers and can cause deterioration of the polymer." Applicant also submits a brochure in support of their position that EO sterilization causes deterioration. It should first be noted that the Gordon reference uses a similar (granted not the same) polymer laminate and uses EO sterilization although still employing a polymer laminate. So it is not believed that one of ordinary skill in the art would per se never use a polymer laminate with EO sterilization. Although the brochure indicates the harshness of EO sterilization, it also on page 3 (of the brochure) under "selection of packaging materials" indicates what the examiner believes is the standard in the art (at the time applicant invention was made) to select material that is permeable but can stand up to EO sterilization.



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